

Tarter Krinsky & Drogin LLP
1350 Broadway
New York, NY 10018
P 212.216.8000
F 212.216.8001
www.tarterkrinsky.com

Anthony D. Dougherty, Partner, CFE
212.216.8099
adougherty@tarterkrinsky.com

March 15, 2019

Via ECF

Honorable Robert D. Drain
United States Bankruptcy Judge
United States Bankruptcy Court
Southern District of New York
300 Quarropas Street
White Plains, New York 10601-4140

***Re: In re The Christian Brothers' Institute ("CBI")
Case No.: 11-22820 (RDD)***

Dear Judge Drain:

This office represents Reorganized Debtors Christian Brothers' Institute and The Christian Brothers of Ireland, Inc. (the "Reorganized Debtors") in the above-referenced matter. We write to request that the Court issue a ruling on the Reorganized Debtors' objection to Claim No. 34-2 (the "Claim") of the Corporation of the Catholic Archbishop of Seattle ("Seattle AD") pursuant to 11 U.S.C. §§ 502(b) and 502(e)(1)(B) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3007 and for an order expunging the Claim.

Your Honor may recall that when the parties appeared before the Court on January 11, 2018, it was decided that the Court would hold its decision regarding the Reorganized Debtors' objection in abeyance so that the parties could pursue a settlement of the Claim.

During the settlement discussions in January 2018, it initially appeared that Seattle AD was willing to withdraw the Claim outright in accordance with the Reorganized Debtors' letter dated January 8, 2014 (Exhibit A). After those conversations, Seattle AD's counsel, Ford Elsaesser, Esq., failed or refused to schedule further meetings or conference calls. I reached out to Mr. Elsaesser well over a dozen times over the past year and have been met with silence. For the most part, Mr. Elsaesser has ignored my communications. When Mr. Elsaesser did respond, he would often state that he would call me, but never actually does. On one particular occasion, we scheduled a specific date and time for a conference call, but Mr. Elsaesser inexplicably did not get on the conference line. I am enclosing as Exhibit B email correspondence demonstrating my efforts to communicate with Mr. Elsaesser for the Court's consideration. To put it simply, I have not been able to speak to Mr. Elsaesser about a settlement in over a year.

Honorable Robert D. Drain
United States Bankruptcy Judge
United States Bankruptcy Court
March 15, 2019
Page 2

The Reorganized Debtors are loath to seek the Court's intervention and continue with litigation, but it is apparent from Mr. Elsaesser's inaction that the Seattle AD has no further interest in discussing settlement. Accordingly, we respectfully request that the Court issue its decision on the Reorganized Debtors' Objection to the Claim.

In closing, we thank the Court for its consideration in this matter.

Respectfully submitted,

/s/ Anthony D. Dougherty
Anthony D. Dougherty

Enclosures

cc: All Counsel of Record (*Via ECF*)

EXHIBIT A



January 8, 2014

Via E-Mail and First Class Mail
map@pattersonbuchanan.com

Michael Patterson, Esq.
Patterson Buchanan Fobes & Leitch, Inc., P.S.
2112 Third Avenue, Suite 500
Seattle, Washington 98121

Re: In re: The Christian Brothers' Institute, et al.

Dear Michael,

I wish you and your family a happy New Year. As you know, the Christian Brothers received a letter from the Most Reverend J. Peter Sartain dated January 6, 2014 which memorialized the sum and substance of a telephone conversation he had with the Brothers Hugh O'Neill and Kevin Griffith on the same day.

Archbishop Sartain requested the Brothers to intercede on the Archdiocese's behalf with the Congregation of Christian Brothers for the release of certain insurance policies in order to move forward with settlements of 36 cases of sexual abuse arising within the Archdiocese. The Brothers responded to the Archbishop's request by forwarding his letter to Congregational Leaders who, in turn, referred the request to its local Counsel.

I spoke with local counsel yesterday. For various reasons, including the attempted service of pleadings on the Congregation, local counsel advised that the Congregation will not release, assign or transfer any of its interest into any insurance policies. From a legal prospective, I am sure you fully understand the Congregation's position.

On an entirely different note, I have reviewed your letter to my partner, Scott Markowitz, dated June 26, 2013 wherein you set forth the basis for which you filed a proof of claim on behalf of the Archdiocese of Seattle for \$1,227,270.00. As I understand your position, the Archdiocese is looking to recover one-half of the settlement payments made by it in connection with the C.G. matters representing what the Christian Brothers should have paid to settle the claims.

NEW YORK OFFICE:

1350 BROADWAY
NEW YORK, NY 10018
TEL: 212. 216. 8000
FAX: 212. 216. 8001

NEW JERSEY OFFICE:

475 WALL STREET
PRINCETON, NJ 08540
TEL: 609. 683. 9494
FAX: 609. 683. 7490

MAIL@TARTERKRINSKY.COM
WWW.TARTERKRINSKY.COM

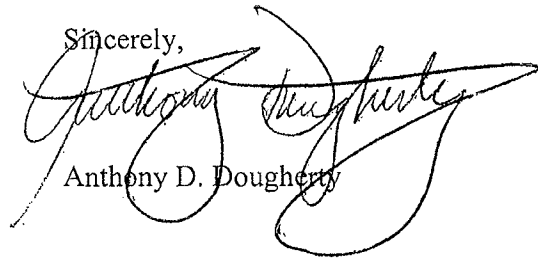
{Client/001718/BANK3005/00722191.DOCX;1 }

Michael Patterson, Esq.
January 8, 2014
Page 2

Please recall, however, the Brothers settled the C.G. claims in December 2008. For your consideration, I am enclosing herein copies of the original Release of All Claims bearing the signatures of all plaintiffs in the C.G. claims. Based on the foregoing, I am requesting that the Archdiocese withdraw its proof of claim since you have no basis either in law or in fact to support same.

If you have any questions, or would like to discuss the substance of this letter, please do not hesitate to call me.

Sincerely,



Anthony D. Dougherty

Enclosure

cc: **Via E-Mail Only**
Scott Markowitz, Esq.
James I. Stang, Esq.
Ilan D. Scharf, Esq.

From: Anthony Dougherty
Sent: Tuesday, January 09, 2018 3:11 PM
To: 'ford@eaidaho.com'
Subject: CBI

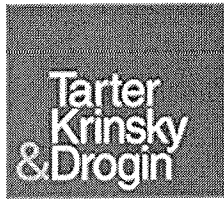
Hi Ford,

I saw your submissions to the Southern District. Are you still of the mind set to adjourn Thursday hearing with a view to speak with Patterson to withdraw the claim?

On another note, thank you for forwarding the Minnesota decisions; truly helpful.

Regards,

Anthony



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

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www.tarterkrinsky.com

EXHIBIT B

From: Anthony Dougherty
Sent: Tuesday, January 09, 2018 3:11 PM
To: 'ford@eaidaho.com'
Subject: CBI

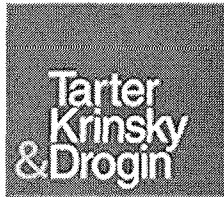
Hi Ford,

I saw your submissions to the Southern District. Are you still of the mind set to adjourn Thursday hearing with a view to speak with Patterson to withdraw the claim?

On another note, thank you for forwarding the Minnesota decisions; truly helpful.

Regards,

Anthony



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adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Ford Elsaesser [mailto:felsaesser@eaidaho.com]

Sent: Tuesday, January 09, 2018 4:51 PM

To: Anthony Dougherty

Subject: [EXT] Re: CBI

Will call in am. On plane. Best. Ford

Sent from my iPhone

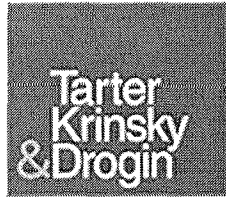
From: Anthony Dougherty
Sent: Wednesday, January 10, 2018 11:37 AM
To: 'Ford Elsaesser'
Subject: RE: CBI
Importance: High

Good morning Ford,

Please provide an update as I am trying to schedule my day for tomorrow.

Regards,

Anthony



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

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1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Ford Elsaesser [<mailto:felsaesser@eaidaho.com>]
Sent: Wednesday, January 10, 2018 12:01 PM
To: Anthony Dougherty
Subject: [EXT] Re: CBI

Just left vm

Sent from my iPhone

From: Anthony Dougherty
Sent: Wednesday, January 10, 2018 12:13 PM
To: 'Ford Elsaesser'
Subject: RE: CBI

Hi Ford,

Just tried you. Left VM



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Ford Elsaesser [<mailto:felsaesser@eaidaho.com>]

Sent: Wednesday, January 10, 2018 2:33 PM

To: Anthony Dougherty

Subject: [EXT] Re: CBI

Could I get copies of your submissions pls. Thx

Sent from my iPhone

From: Anthony Dougherty
Sent: Wednesday, January 10, 2018 4:30 PM
To: Ford Elsaesser (felsaesser@eaidaho.com)
Subject: FW: CBI



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M:908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Ford Elsaesser [<mailto:felsaesser@eaidaho.com>]
Sent: Wednesday, January 10, 2018 3:46 PM
To: Anthony Dougherty
Subject: [EXT] Re: CBI

Yes thanks. Might need to call you later. What number

Sent from my iPhone

On Jan 10, 2018, at 2:21 PM, Anthony Dougherty <ADougherty@tarterkrinsky.com> wrote:

Ford,

Did u receive it?

<[image4043ab.PNG](#)>

Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M:908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

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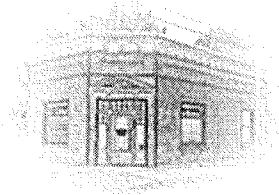
From: Ford Elsaesser [<mailto:felsaesser@eaidaho.com>]
Sent: Wednesday, January 10, 2018 5:13 PM
To: Anthony Dougherty
Subject: [EXT] RE: CBI

To: Anthony Dougherty

Dear Tony:

We are okay with having our response due to your pleadings, say by next Friday or the following Wednesday. Can we just go on the record with that when we start off tomorrow? Call my cell at 208-661-5773 with any questions. I fly back into Spokane tonight, and will be taking the call early, Pacific Time, in the morning. Thanks.

Very truly yours,
Ford Elsaesser
Attorney at Law
FE/ll



Established 1979

Please note our new address and email!

Elsaesser Anderson, Chtd.

P. O. Box 1049

414 Church Street, Suite 201

Sandpoint, ID 83864

Telephone: 208-263-8517

Cell phone: 208-661-5773

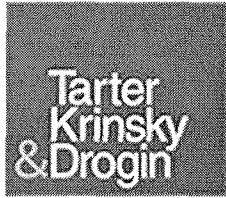
ford@eaidaho.com

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From: Anthony Dougherty
Sent: Tuesday, January 16, 2018 2:03 PM
To: 'Ford Elsaesser'
Subject: RE: CBI

Hi Ford,

Are you around to talk?



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

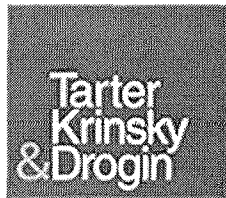
From: Anthony Dougherty
Sent: Monday, March 05, 2018 1:08 PM
To: 'Ford Elsaesser'
Subject: RE: CBI

Ford,

I have left a couple of messages for you but have not heard back. Are you around for a call today?

Regards,

Anthony



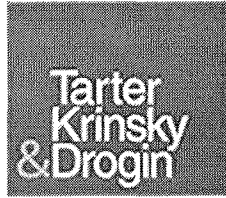
Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Anthony Dougherty
Sent: Tuesday, March 06, 2018 5:28 PM
To: 'Lois LaPointe'
Subject: RE: CBI

Lois,

Is Ford available now for a call? Or tomorrow morning?



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M:908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Lois LaPointe [<mailto:llapointe@eaidaho.com>]
Sent: Monday, March 05, 2018 2:56 PM
To: Anthony Dougherty
Cc: Ford Elsaesser
Subject: [EXT] RE: CBI

Ford is traveling today and may not have very good access to his emails, and he is in court tomorrow and then traveling back to the office. Do you need to hear from him today or would later this week be timely?

Thank you.
Lois LaPointe
Legal Assistant to Ford Elsaesser
208-263-8517

From: Anthony Dougherty
Sent: Wednesday, March 07, 2018 11:15 AM
To: 'Lois LaPointe'
Subject: RE: CBI

The invite was nice, but a call would have been better.



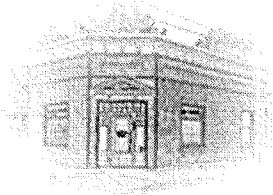
Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Lois LaPointe [<mailto:llapointe@eaidaho.com>]
Sent: Tuesday, March 06, 2018 6:31 PM
To: Anthony Dougherty
Subject: [EXT] RE: CBI

Would you be available at 11 am Eastern Time tomorrow? I will send you a calendar invite. Thanks.

Very truly yours,
Lois LaPointe
Legal Assistant to Ford Elsaesser
PACE Registered Paralegal



Established 1979

Please note our new address and email!

Elsaesser Anderson, Chtd.

P. O. Box 1049
414 Church Street, Suite 201
Sandpoint, ID 83864
Telephone: 208-263-8517
lois@eaidaho.com

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From: Anthony Dougherty
Sent: Wednesday, March 07, 2018 11:23 AM
To: 'Lois LaPointe'
Subject: RE: CBI

LOL, if you do, ask him to call me on my cell. We are getting hit with a nasty storm and heading home now.

Regards,

Anthony



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M:908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Lois LaPointe [<mailto:llapointe@eaidaho.com>]
Sent: Wednesday, March 07, 2018 11:16 AM
To: Anthony Dougherty
Subject: [EXT] RE: CBI

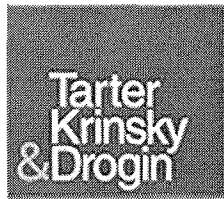
Oh, my. I will track him down.

From: Anthony Dougherty
Sent: Wednesday, March 07, 2018 11:30 AM
To: 'Lois LaPointe'
Subject: RE: CBI

Thank you , Lois!

Regards,

Anthony



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

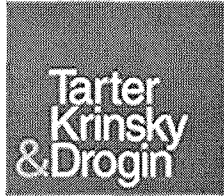
From: Lois LaPointe [<mailto:llapointe@eaidaho.com>]
Sent: Wednesday, March 07, 2018 11:29 AM
To: Anthony Dougherty
Subject: [EXT] RE: CBI

I talked to Ford. He will be calling you shortly—on your cell.

From: Anthony Dougherty
Sent: Friday, March 09, 2018 2:17 PM
To: 'Ford Elsaesser'
Subject: RE: CBI

Ford,

A gentle reminder that you were going to get back to me yesterday on two fronts: Seattle and Bergen.



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Anthony Dougherty
Sent: Tuesday, March 13, 2018 10:55 AM
To: 'Ford Elsaesser'
Subject: Any update?



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Anthony Dougherty
Sent: Friday, March 23, 2018 11:21 AM
To: 'Ford Elsaesser'
Subject: ???

Anything to report back?



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

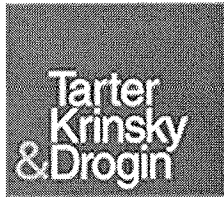
From: Anthony Dougherty
Sent: Wednesday, June 13, 2018 10:47 AM
To: 'Ford Elsaesser'
Subject: CBI

Ford,

I trust all is well. I have not heard from you regarding Seattle Arch and CBI. I take it that your silence is a rejection of the Brothers' offer to settle the bankruptcy issue. If I don't receive a response, I will submit my response to the Arch' last submission tomorrow afternoon.

Regards,

Anthony



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Anthony Dougherty
Sent: Wednesday, June 13, 2018 1:52 PM
To: 'Ford Elsaesser'
Subject: RE: CBI - call on Monday?

Looking forward to your call! Safe travels!



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Ford Elsaesser [<mailto:felsaesser@eaidaho.com>]
Sent: Wednesday, June 13, 2018 1:37 PM
To: Anthony Dougherty
Subject: [EXT] CBI - call on Monday?

To: Anthony Dougherty

Dear Tony:

I am sorry I have not gotten back to you sooner—I will plan to call you early on Monday, as the rest of this week is shot. (I am taking a red-eye to New York tonight for an all-day mediation with Judge Rhodes at JAMS in a hospital district Chapter 9, then back to Idaho for hearings on Friday morning.)

The good news is that we have settled the Diocese of Great Falls-Billings and are making real progress in the Diocese of Duluth case. I am sure you have already heard that the Archdiocese of Minneapolis-St. Paul has finally settled for approximately \$210 million.

If it is okay with you, I will call you at 8 am Pacific / 11 am Eastern on Monday morning, if that works for you. I am looking forward to a time when I do not have to think about Le James, Mike Pfau or Jeff Anderson, but that does not appear to be in the cards—not for you, either, the way New York seems to be headed...

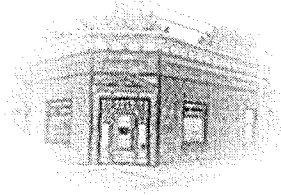
Thanks.

Very truly yours,

Ford Elsaesser

Attorney at Law

FE/ll



Established 1979

Please note our new address and email!

Elsaesser Anderson, Chtd.

P. O. Box 1049

414 Church Street, Suite 201

Sandpoint, ID 83864

Telephone: 208-263-8517

Cell phone: 208-661-5773

ford@eaidaho.com

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From: Anthony Dougherty
Sent: Wednesday, June 20, 2018 8:09 AM
To: 'Ford Elsaesser'
Cc: Lena Peralta; kmg@cbinstitute.org
Subject: Calls

Ford,

I must say, I am at as total loss as to why you consistently schedule telephone calls with my office but fail to call at the appointed times.

As I told my client, I think you are an excellent lawyer, but I am at a loss to explain the unprofessionalism you have demonstrated towards me and my client in this matter. I have been extremely patient with you and your client. Please do not send another calendar request to me or my assistant because it will not be accepted. If there is any information you need to convey to either me or my client, please do so in writing.

Regards,

Anthony



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Anthony Dougherty
Sent: Monday, November 05, 2018 10:06 AM
To: 'Ford Elsaesser'
Subject: Mike Patterson

Ford,

I recently heard about the passing of Mike. My prayers to his family. Is there a possibility of a revisit with the Arch on the bankruptcy matter or do I need to push for a decision with Judge drain.



Anthony Dougherty | Partner, CFE

D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001

adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP

1350 Broadway | New York | NY | 10018

www.tarterkrinsky.com

From: Anthony Dougherty
Sent: Monday, November 26, 2018 6:25 PM
To: Lois LaPointe
Cc: Ford Elsaesser
Subject: Re: [EXT] note from Anthony Dougherty

Dear Lois,

Try as I might, I cannot seem to get a call with Ford. If I cannot get a call with him tomorrow, I will push the court for a decision with a note that I have tried to settle this claim but I cannot even get a call back

Sent from my iPhone

On Nov 5, 2018, at 10:37 AM, Lois LaPointe <llapointe@eaidaho.com> wrote:

Dear Tony:

Ford is out this week. I will remind him next week of your memo and get you on his schedule for a call. Thank you.

Very truly yours,
Lois LaPointe
Legal Assistant to Ford Elsaesser
208-263-8517

From: Anthony Dougherty
Sent: Wednesday, November 28, 2018 7:16 AM
To: 'Ford Elsaesser'
Cc: Anthony Dougherty; kmg@cbinstitute.org
Subject: Seattle

Good morning Ford,

I hope you were able to reach counsel for Seattle Archdiocese yesterday. Please call me or shoot me an email with your update today.

Thank you!

Regards,

Anthony

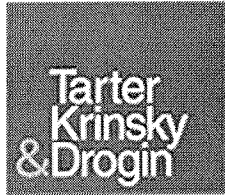


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adougherty@tarterkrinsky.com | [Bio](#)

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1350 Broadway | New York | NY | 10018
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From: Anthony Dougherty
Sent: Wednesday, December 05, 2018 8:58 AM
To: 'Ford Elsaesser'
Subject: My last attempt

?????

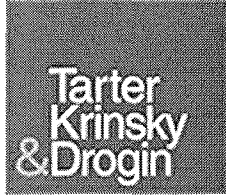


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adougherty@tarterkrinsky.com | [Bio](#)

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1350 Broadway | New York | NY | 10018
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From: Anthony Dougherty
Sent: Wednesday, December 05, 2018 3:21 PM
To: 'Ford Elsaesser'
Subject: RE: Christian Brothers - Archdiocese of Seattle

Will do



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Ford Elsaesser [<mailto:felsaesser@eaidaho.com>]
Sent: Wednesday, December 05, 2018 2:53 PM
To: Anthony Dougherty
Subject: [EXT] Christian Brothers - Archdiocese of Seattle

To: Anthony Dougherty – Adougherty@tarterkrinsky.com

Dear Tony:

I apologize for the delay. I just came back from Albuquerque, and have not been able to come up for air from that matter for about the last six days, as my partner had a death in his family, and I have been swamped.

Anyway, Mary Santi is out until Friday, and I am scheduling a call with her then, and will get back to you as soon as I have talked with her about the resolution we have discussed. Please hang on. Thanks.

Very truly yours,
Ford Elsaesser
Attorney at Law
FE/ll

Established 1979

Please note our new address and email!

Elsaesser Anderson, Chtd.

P. O. Box 1049

414 Church Street, Suite 201

Sandpoint, ID 83864

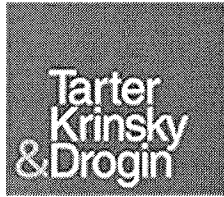
Telephone: 208-263-8517

Cell phone: 208-661-5773

ford@eaidaho.com

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From: Anthony Dougherty
Sent: Friday, December 14, 2018 2:01 PM
To: 'Ford Elsaesser'
Subject: ????????????????????



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com

From: Anthony Dougherty
Sent: Monday, January 14, 2019 12:33 PM
To: 'Ford Elsaesser'
Subject: Any movement?
Importance: High



Anthony Dougherty | Partner, CFE
D: 212-216-8099 | M: 908-307-6574 | F: 212-216-8001
adougherty@tarterkrinsky.com | [Bio](#)

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